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GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

Division of Drinking Water

February 22, 2016

Mr. Gino Fortino  
President  
Fortino Winery  
4525 Hecker Pass Highway  
Gilroy, CA 95020

Dear Mr. Fortino:

**CITATION NO. : 02-17-16C-011  
NITRATE MONITORING AND REPORTING VIOLATION  
FORTINO WINERY, WATER SYSTEM NO. 4301006**

Enclosed is a citation issued to the Fortino Winery. The citation is issued because the water system failed to comply with Section 64432.1(a), Chapter 15.5, Title 22, California Code of Regulations (CCR). The nitrate monitoring and reporting requirements were not met for the year 2015.

If you have any questions regarding this matter, please contact Jose P. Lozano IV at (510) 620-3459.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Lacy", written over a horizontal line.

Eric Lacy, P.E.  
District Engineer  
Santa Clara District  
Division of Drinking Water  
State Water Resources Control Board

Enclosures: 1) Sample Notice (Attachment A)  
2) Proof of Notification Form (Attachment B)

**Certified Mail # 7014 3490 0001 7031 0925**

cc: Santa Clara County Environmental Health Department (w/ encl.)  
bcc: File Server: 4301006\Enforcement\2015 Nitrate M&R procedural vio citation; Enforcement  
File; Chron (all w/ encl.)  
W4301006\160218.cit.ltr

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

850 Marina Bay Parkway, Bldg. P, 2nd Floor, Richmond, CA 94804-6403 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

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**STATE OF CALIFORNIA**  
**WATER RESOURCES CONTROL BOARD**  
**DIVISION OF DRINKING WATER**

**TO:** Fortino Winery  
4525 Hecker Pass Highway  
Gilroy, CA 95020

**ATTN:** Mr. Gino Fortino  
President

**CITATION FOR VIOLATION OF CALIFORNIA CODE OF REGULATIONS, TITLE 22,**  
**SECTION 64432.1(a) – WATER SYSTEM NO. 4301006**

**CITATION NO. 02-17-16C-011**

**Issued on February 19, 2016**

Section 116650 of the California Health and Safety Code authorizes the issuance of a citation to a public water system for violation of the California Safe Drinking Water Act (Health and Safety Code, Division 104, Part 12, Chapter 4, commencing with Section 116270) (hereinafter "California SDWA"), or any regulation, standard, permit or order issued or adopted thereunder.

The State Water Resources Control Board, acting by and through its Division of Drinking Water (hereinafter "Division" or "DDW") and the Deputy Director for the Division (hereinafter "Deputy Director"), hereby issues a citation to the Fortino Winery (hereinafter, "Winery" or



1 "Water System") (mailing address: 4525 Hecker Pass Highway, Gilroy, CA) for violation of  
2 California Code of Regulations (CCR), Title 22, Section 64432.1 subsection (a).  
3  
4

5 **APPLICABLE AUTHORITIES**

6 **Section 116650 of California Health and Safety Code provides:**  
7

8 (a) If the department determines that a public water system is in violation of  
9 this chapter or any regulation, permit, standard, citation, or order issued or adopted  
10 thereunder, the department may issue a citation to the public water system. The citation shall  
11 be served upon the public water system personally or by certified mail. Service shall be  
12 deemed effective as of the date of personal service or the date of receipt of the certified mail.  
13 If a person to whom a citation is directed refuses to accept delivery of the certified mail, the  
14 date of service shall be deemed to be the date of mailing.

15 (b) Each citation shall be in writing and shall describe the nature of the  
16 violation or violations, including a reference to the statutory provision, standard, order,  
17 citation, permit, or regulation alleged to have been violated.

18 (c) A citation may specify a date for elimination or correction of the condition  
19 constituting the violation.  
20

21 (d) A citation may include the assessment of a penalty as specified in  
22 subdivision (e).

23 (e) The department may assess a penalty in an amount not to exceed one  
24 thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day  
25 that a violation continues to occur. A separate penalty may be assessed for each violation.  
26  
27



1 California Code of Regulations, Title 22, Section 64432.1 subsection (a) provides, in  
2 relevant part:

3  
4 (a) To determine compliance with the MCL for nitrate in Table 64431-A,  
5 all public water systems using groundwater and transient-noncommunity systems  
6 using approved surface water shall monitor annually, and all community and  
7 nontransient-noncommunity systems using approved surface water shall monitor  
8 quarterly.

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11  
12 **STATEMENT OF FACTS**

13 The Winery is a transient non-community water system located at 4525 Hecker Pass  
14 Highway, approximately four miles northwest of the City of Gilroy, California. The  
15 water system consists of one active groundwater well, Well 01 (Primary Station Code  
16 (PSC) No. 4301006-001), one 10,000-gallon steel storage tank, a booster pump and  
17 a distribution system.  
18

19 Pursuant to Title 22, CCR, Section 64432.1(a), the Winery is required to collect one  
20 source sample for nitrate from Well 01 and report the result via Electronic Data  
21 Transfer (EDT). During the 2015 compliance period, the Water System failed to  
22 collect a nitrate sample from the groundwater source. Specifically, the Winery failed  
23 to collect a nitrate sample at Well 01 and report the result to the Division via EDT.  
24 Therefore, the Winery violated the nitrate monitoring and reporting requirement for  
25 the 2015 compliance period.  
26  
27



1  
2 **DETERMINATION**

3 The Division has determined that the Winery failed to comply with the nitrate monitoring and  
4 reporting requirements for the 2015 compliance period.  
5

6  
7 **DIRECTIVES**

8 The Winery is hereby directed to take the following actions:  
9

10 1) Forthwith, the Winery shall cease and desist from failing to comply with the nitrate  
11 monitoring and reporting requirements. Specifically, the Winery must monitor and report  
12 via EDT one nitrate sample for Well 01 for the 2016 compliance period by March 31,  
13 2016 and every year thereafter.  
14

15 2) The Winery shall conduct public notification for the nitrate monitoring and reporting  
16 violation within one year in conformance with Section 64463.7, Chapter 15, Title 22,  
17 California Code of Regulations (CCR). The notification shall be completed in accordance  
18 with each of the following methods:

- 19 a. Posting in conspicuous locations throughout the area served by the water  
20 system; and  
21 b. Direct delivery to each employee.  
22

23 A sample copy of public notification for your use in notifying your customers is enclosed for  
24 your reference and use (Attachment A). Complete Attachment B (Proof of Notification form)  
25 and return it to the Division within 14 days of completing the notification. A copy of the  
26 notice used shall be attached to the Proof of Notification form.  
27



1 3) Prepare a written Corrective Action Plan (CAP) that describes the specific actions that  
2 will be taken to ensure that future nitrate monitoring and reporting violations will not  
3 occur. Submit the CAP to the Division by March 31, 2016.

4  
5  
6 The Division reserves the right to make such modifications to this Citation as it may deem  
7 necessary to protect public health and safety. Such modifications may be issued as  
8 amendments to this Citation, and shall be deemed effective upon issuance.

9  
10 Nothing in this Citation relieves Fortino Winery of its obligation to meet the requirements of  
11 the California Safe Drinking Water Act, or of any regulation, permit, standard, or order issued  
12 or adopted thereunder.

13  
14 All submittals required by this Citation shall be submitted to the Division at the following  
15 address:

16  
17  
18 Mr. Eric Lacy, P.E., District Engineer  
19 Santa Clara District  
20 Division of Drinking Water  
21 State Water Resources Control Board  
22 850 Marina Bay Parkway, Building P, Second Floor  
23 Richmond, CA 94804

24 **PARTIES BOUND**

25 This Citation shall apply to and be binding upon the Winery, its officers, directors,  
26 shareholders, agents, employees, contractors, successors, and assignees.



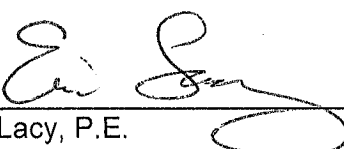
**SEVERABILITY**

The Directives of this Citation are severable, and SRIAI shall comply with each and every provision thereof, notwithstanding the effectiveness of any other provision.

**FURTHER ENFORCEMENT ACTION**

The California SDWA authorizes the Division to: issue citation with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any permit, regulation, permit or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the Division to take action to suspend or revoke a permit that has been issued to a public water system if the system has violated applicable law or regulations or has failed to comply with an order of the Division; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with violates an order of the Division. The Division does not waive any further enforcement action by issuance of this citation.

February 22, 2016  
Date

  
Eric Lacy, P.E.  
District Engineer  
Santa Clara District  
Division of Drinking Water  
State Water Resources Control Board

Attachments

CERTIFIED MAIL # 7014 3490 0001 7031 0925

cc: Santa Clara County Environmental Health Department (w/ attachments)



**IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**

Este informe contiene información muy importante sobre su agua potable.  
Tradúzcalo o hable con alguien que lo entienda bien.

**Monitoring Requirements Not Met for  
Fortino Winery, Water System No. 4301006**

Our water system failed to monitor as required for drinking water standards during the past year and, therefore, was in violation of the regulations. Even though this failure was not an emergency, as our customers, you have a right to know what you should do, what happened, and what we did to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During 2015, we did not monitor (or test) for nitrate and therefore, cannot be sure of the quality of our drinking water during that time.

**What should I do?**

- There is nothing you need to do at this time.
- The table below lists the contaminant(s) we did not properly test for during the last year, how many samples we are required to take and how often, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

<i>Contaminant</i>	<i>Required Sampling Frequency</i>	<i>Number of Samples Taken</i>	<i>When All Samples Should Have Been Taken</i>	<i>When Samples Were or Will Be Taken</i>
Nitrate	One sample per year	None	2015	By March 31, 2016

- If you have health issues concerning the consumption of this water, you may wish to consult your doctor.

**What happened? What is being done?**

[Describe corrective action].

For more information, please contact [name of contact] at [phone number] or [mailing address].

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this public notice in a public place or distributing copies by hand or mail.*

This notice is being sent to you by the Fortino Winery.

State Water System ID#: 4301006. Date distributed: \_\_\_\_\_.



**PROOF OF NOTIFICATION**

Fortino Winery  
System Number: 4301006

As required by Section 116450 of the California Health and Safety Code, I notified the users of the water supplied by the Fortino Winery. of the violations of Title 22, California Code of Regulations (CCR) for the 2015 compliance period. I complied with the directives of this citation as indicated below:

Required Action

Date  
Completed

Conduct Public Notification – (Attach copy of the notice used.)

- Posting in conspicuous locations throughout the area served by the water system.
- Direct delivery to each employee.

Submit Corrective Action Plan


\_\_\_\_\_  
Signature of Water System Representative

\_\_\_\_\_  
Date

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE SWRCB DIVISION OF DRINKING WATER. A COPY OF THE NOTICE USED MUST BE ATTACHED TO THIS FORM.**

**Disclosure:** Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached citation may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in county jail not to exceed one year, or by both the fine and imprisonment.